IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

OP.No. 8951 of 2000(N)

PETITIONER:

ROSAMMA GEORGE, SEWING TEACHER,
S.N.M.U.P. SCHOOL, KANDACHIRA,
PERINAD P.O., KOLLAM.

BY ADV. SRI.C.P.SUDHAKARA PRASAD (SR.)
SRI.ELVIN PETER P.J.
SRI.S.RAMESH

RESPONDENTS:
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1. **STATE OF KERALA, REP.BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION DEPARTMENT, GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.**

3. **THE ASSISTANT EDUCATIONAL OFFICER, KUNDARA, KOLLAM DISTRICT.**

4. **THE MANAGER S.N.M.U.P. SCHOOL, KANDACHIRA PERINAD P.O., KOLLAM.**

BY SR. GOVERNMENT PLEADER SRI.T.T.MUHAMOOD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 29/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.8951/2000

ORDER ON CMP. 14951/1000 IN OP. NO.8951/2000

DISMISSED

29.11.2007 **SD/- S.SIRI JAGAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE APPOINTMENT ORDER DT. 19.12.88 OF THE PETITIONER ALONG WITH THE APPROVAL BY THE AEO.

EXT.P2:- COPY OF THE JUDGMENT DT. 2OTH JULY, 1995 IN OP.11480/95 OF THIS HONOURABLE COURT.

EXT.P3:- COPY OF THE REPRESENTATION DT. 14.8.95 FILED BY THE PETITIONER BEFORE THE GOVERNMENT.

EXT.P4:- COPY OF THE ORDER G.O.(RT)NO. 1242/96/GE. DT. 1.4.96.

EXT.P5:- COPY OF THE COMMUNICATION DT. 24.4.96 SENT BY THE MANAGER TO THE AEO.

EXT.P6:- COPY OF THE REPRESENTATION DT. 31.10.96 FILED BY THE PETITIONER BEFORE THE GOVT.

EXT.P7:- COPY OF THE ORDER BNO.3607/K3/99/G.EDN. DT. 27.1.2000 SENT BY THE GOVERNMENT.

EXT.P8:- COPY OF THE ORDER G.O.(MS) NO. 56/71/S.EDN. DT. 19.5.71.

EXT.P9:- COPY OF THE ORDER G.O.(MS) NO.58/71/S.EDN. DT. 22.5.71.

EXT.P10:- COPY OF THE ORDER G.O(RT) NO.807/91/G.EDN. DT. 14.3.91.

EXT.P11:- COPY OF THE CIRCULAR NO.78932/J1/88/G.EDN. DT. 17.12.88 ISSUED BY THE GOVERNMENT.

EXT.P12:- COPY OF THE ORDER NO.D.DIS 3136/89/RA(1)/DPI. DT. 9.3.89 ISSUED BY THE JOINT DIRECTOR OF PUBLIC INSTRUCTION.

EXT.P13:- COPY OF THE ORDER G.O.(RT) NO.4896/2000/G.EDN. DT. 30.11.2000 ISSUED BY THE GOVERNMENT.

EXT.P14:- COPY OF THE ORDER GO.(RT) NO.753/01/G.EDN. DT. 23.2.01 ISSUED BY THE GOVERNMENT.

EXT.P15:- COPY OF THE CERTIFICATE DT. 18.7.05 ISSUED BY THE HEADMISTRESS, S.N.M.U.P.SCHOOL, KANDACHIRA.

/TRUE COPY/
P.A. TO JUDGE

S.SIRI JAGAN,J

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O.P.No.8951 of 2000

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Dated this the 29th day of November, 2007

JUDGMENT

The petitioner is a Sewing Teacher in S.N.M. U.P. School, Kandachira, Perinad, Kollam. A Full- Time Sewing Teacher's post was available in the school before 1969-1970. In that post one Smt.Sarasamma was functioning as a Full-Time Sewing Teacher from 31.3.1988. In that retirement vacancy the petitioner was appointed as a Full-Time Sewing Teacher by the 4th respondent Manager by order of appointment dated 19.12.1988. Now the petitioner is aggrieved by the orders of the educational authorities, whereby the petitioner's appointment is treated as part-time instead of full-time. When petitioner applied for leave without allowances for the period from 1.4.1995 to 2.6.1996 by Ext.P7 order of the Government, the same was rejected on the ground that the petitioner is not eligible for leave without allowances as she is a part-time needle work Teacher . In the above circumstances the petitioner seeks the following reliefs:

"i) issue a writ of certiorari or any other appropriate writ,

direction or order calling for the records leading to Ext.P7 and quashing the same.

ii) issue a writ of mandamus or any other appropriate writ, direction or order directing the respondents to reconsider the petitioner's claim made under Ext.P6 in the light of Exts.P8 and P9 orders issued by the Government.

iii) Issue a writ of mandamus or any other appropriate writ, direction or order directing respondents 1 and 3 to approve the appointment of the petitioner as Sewing Teacher from 1.4.1989 to 31.5.1989 and to disburse the salary legitimately due to her.

iv) Issue a writ of mandamus or any other appropriate writ, direction or order asking the respondents to treat the post of Sewing Teacher occupied by the petitioner as Full Time post of Sewing Teacher from 19.12.1990 and to approve her appointment as Full Time Sewing Teacher from that date and disburse the salary of Full time Teacher to her including arrears.

v) Issue a writ of mandamus or any other appropriate writ, direction or order declaring that the petitioner's claim for Full Time post of Sewing Teacher has to be reconsidered in the light of then law laid down by this Hon'ble Court in the decisiona reported in 1999 (2) KLT 652 and Exts.P8 and P9 orders governing the field.

vi) Issue a writ of mandamus or any other appropriate writ, direction or order declaring that the petitioner is entitled to have her appointment approved as Full Time Sewing Teacher based on Ext.P1 order of appointment with effect from 19.12.1990 and the salary on the basis of that has to be disbursed to her with interest at the rate of 18% per annum.

vii) Issue a writ of mandamus or any other appropriate writ, direction or order declaring that the petitioner is entitled to have the period from 20.6.1995 to 2.6.1996 treated as service and all service benefits due to her have to be given to her based on that."

2. The petitioner now relies on Ext.P11 circular issued by the Government whereby the Government, has held that the

post of specialist teachers existing prior to 1969-1970 would not be deemed to have been abolished in subsequent years for any reason whatsoever, and the posts should be treated as continuous. It was further held that "substitute appointment against the vacancies will be paid continuously and it will included all appointments made against such vacancies during the year 1988-89 also." On the strength of this Government Circular the petitioner contends that in so far as the petitioner was appointed with effect from 19.12.1990 during the year 88-89 the petitioner is entitled to benefit in the above circular.

3. The learned Government Pleader would submit that since the sanctioned post was only that of part-time Sewing Teacher the petitioner cannot claim that her post should be treated as full-time. However, the petitioner points out that in Exts.P13 and P14 orders similarly placed teachers were given Full-Time benefits.

4. I have considered the rival contentions in detail. In view of Ext.P11, I am of the opinion that the petitioner is entitled to be considered as Full-Time. The learned Government Pleader

could not satisfy me as to how the petitioner's case is different from teachers covered by Exts.P13 and P14. Accordingly, I direct the 3rd respondent to approve the appointment of the petitioner as Full-Time Sewing Teacher notionally with monetary benefits prospectively from the date of this judgment. Orders in this regard shall be issued within two months from the date of receipt of a copy of this judgment.

The writ petition is allowed as above.

S.SIRI JAGAN, JUDGE

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